Approved For Release 2004/08/19 : CIA-RDP81M00980R000890050057-7

OLC 78-0200 31 January 1978

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MEMORANDUM FOR THE RECORD

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SUBJECT: Federal Tort Claims Act

TAT	1. In early January, I met with and
STAT	both of OGC. They were concerned about a
	possible impact of the revisions of the Federal Tort Claims
	Act (S. 2117) on the Agency's ability to protect the identify
· .	of employees involved in civil suits.
STAT	2. Currently, the Government does not assume
	liability for torts committed by employees overseas. In
	cases involving its employees, the Agency files a memorandum
	which argues the need for secrecy as a reason for not disclosing
	the employee's identity. To date, federal district courts have
	agreed. OGC was concerned that the aggrieved party could argue
	that, because under the revision the Federal Government still
	would not assume liability for torts committed overseas, Congress
	intended that the individual be liable for overseas torts, else
	it would have provided that the Federal Government be liable.
	The result, feared by OGC, could be that the Agency's Secrecy
	Agreement would be rebutted by this argument of implied
	Congressional intent.

3. On 25 January 1978, I discussed this with Irving Jaffe, Deputy Assistant Attorney General, Civil Division. He said that the Department of Justice was going to amend the proposed legislation to include constitutional torts committed overseas within the scope of the Act. This is the type category of torts for which the suits involving the Agency have brought. He added that, if a situation arose which still presented problems of disclosure of an employee's identity, the Government could possibly assume liability and require the plaintiff merely to prove damages.

INTERNAL USE ONLY

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